

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 CONTINENTAL D.I.A. DIAMOND
12 PRODUCTS, INC., a California corporation,

13 Plaintiff,

14 vs.

15 DONG YOUNG DIAMOND INDUSTRIAL
16 CO., LTD., a South Korean company,
17 DONGSOO LEE, an individual, and DOES 1-
18 10, inclusive,

19 Defendants.

20 AND RELATED COUNTERCLAIMS.

Case No. CV 08-2136 SI

**FOURTH JOINT STIPULATION AND
[PROPOSED] ORDER FOR
MODIFICATION OF CASE
MANAGEMENT SCHEDULE AND
TRIAL DATE**

Judge: Honorable Susan Illston

Complaint Filed: April 24, 2008
Trial Date: April 19, 2010

21
22 **STIPULATION**

23 WHEREAS, Continental D.I.A. Diamond Products, Inc. (“Continental” or “Plaintiff”) and
24 Defendants Dong Young Diamond Industrial Co., Ltd. and DongSoo Lee (collectively
25 “Defendants”) continue to engage in settlement discussions, which respective counsel believe will
26 lead to a final resolution of this matter;

27 WHEREAS, the parties have made additional progress in such settlement discussions, have
28 reached near final agreement on terms of settlement and have taken steps to assure settlement once

1 reached will be effected;

2 WHEREAS, respective counsel for the parties have been and continue to be in frequent
3 contact to attempt to resolve the differences between the parties;

4 WHEREAS, the parties, mindful of this Court's interest in having this case resolved, and
5 confident of the parties' ability to resolve this highly complex matter, are diligently working to
6 reach a settlement. However, given the complicated nature of some of the intellectual property at
7 issue and due to the continuing time-zone and communication, multi-lingual and multi-cultural
8 challenges faced by counsel for Defendants, the parties require additional time;

9 WHEREAS, counsel for the parties believe that an additional thirty (30) day suspension of
10 applicable deadlines in this case will allow the parties and counsel to continue to devote their
11 attention and resources to a final resolution of this matter,

12 WHEREAS, the parties also agree that the requirement that they participate in a settlement
13 conference before a Magistrate Judge should also be continued for thirty (30) days as the parties
14 believe that they should be able to resolve the case without Judicial Assistance and would like to
15 focus their resources and time on finalizing settlement;

16 WHEREAS, the agreed upon extension of the settlement conference, the fact and expert
17 discovery deadlines, dispositive motion deadlines and the trial date is not for the purpose of delay,
18 and the parties believe that this reasonable extension of time may well obviate the need for trial in
19 this matter, and is in the interests of fairness and judicial economy.

20 ACCORDINGLY, the parties, by and through their undersigned counsel, HEREBY
21 STIPULATE as follows:

22 In order to avoid prejudicing the parties' discovery efforts and trial preparations, and to
23 allow the parties to focus on settlement negotiations, the parties agree and respectfully request that
24 the current pre-trial schedule be modified as follows:

25 1. The fact discovery cut-off, which is currently set for January 21, 2010, is extended to
26 February 22, 2010;

27 2. The deadline to designate experts, which is currently set for March 1, 2010, is
28 extended to March 31, 2010;

1 3. The deadline to designate rebuttal experts, which is currently set for March 25, 2010,
2 is extended to April 26, 2010; and

3 4. The expert discovery cut-off, which is currently set for April 12, 2010, is extended to
4 May 12, 2010.

5 5. The dates for dispositive motions are extended for thirty days, to the following
6 schedule:

- 7 • Dispositive Motions Due: March 17, 2010
- 8 • Oppositions Due: March 29, 2010
- 9 • Replies Due: April 7, 2010

10 6. The hearing on dispositive motions, which is currently set for April 2, 2010, is reset
11 for May 3, 2010, or as soon thereafter as the Court's schedule permits.

12 7. The pretrial conference, which is currently set for May 18, 2010, is adjourned for
13 thirty (30) days, to June 17, 2010 or as soon thereafter as the Court's schedule permits.

14 8. The trial date, which is currently set for June 1, 2010, is adjourned for thirty (30)
15 days, to July 1, 2010 or as soon thereafter as the Court's schedule permits.

16 9. The settlement conference, which is currently set for January 15, 2010 (Dkt.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

No.147), is adjourned for thirty (30) days, to February 15, 2010, subject to Magistrate Maria-Elena James' availability.

10. All other deadlines are tolled for thirty (30) days as of the date of this stipulation.

IT IS SO STIPULATED BY THE PARTIES.

Dated: December 16, 2009 MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO P.C.

/s/ Jeffrey M. Ratino
By: JEFFREY M. RATINOFF

Attorneys for Plaintiff/Counter-Defendant,
Continental D.I.A. Diamond Products, Inc.

Dated: December 16, 2009 PRETI FLAHERTY BELIVEAU & PACHIOS, LLP

/s/ Alfred C. Frawley
By: ALFRED C. FRAWLEY

Attorneys for Defendants/Counterclaimants,
Dong Young Diamond Industrial Co., Ltd., and DongSoo Lee

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated:



THE HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT COURT JUDGE

4791943v.1